

STATE OF TENNESSEE

PUBLIC CHAPTER NO. 556

SENATE BILL NO. 162

By Ketron, Beavers, Johnson

Substituted for: House Bill No. 506

By Todd, Lynn

AN ACT to amend Tennessee Code Annotated, Title 2; Title 3; Title 4 and Title 8, relative to regulation of governmental ethics.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 4, is amended by adding the following language as a new Chapter 54:

§ 4-54-101.

(a)(1) There is created, as an independent entity of state government, the Bureau of Ethics and Campaign Finance, referred to in this chapter as the "bureau".

(2) The bureau shall be composed of two (2) divisions as follows:

(A) The Tennessee registry of election finance, established by Title 2, Chapter 10, Part 2; and

(B) The Tennessee Ethics Commission, established by Title 3, Chapter 6, Part 1.

(3) The bureau shall be governed by a board of directors to be composed of the six (6) members of the registry of election finance and the six (6) members of the ethics commission.

(b) The Bureau of Ethics and Campaign Finance shall be attached to the Department of State for all administrative matters relating to receipts, disbursements, expense accounts, budget, audit, and other related items. The autonomy of the bureau and its authority is absolute and the secretary of state shall have no administrative or supervisory control over the bureau.

(c) The board of directors shall elect a chair from among its membership. The chair shall serve in that capacity for one (1) year and shall be eligible for reelection. The chair shall preside at all meetings and shall have all the powers and privileges of the other members.

(d) Eight (8) members of the board of directors shall constitute a quorum and eight (8) affirmative votes are required for any action by the board of directors. Special meetings shall be called by the chair on the chair's initiative or upon the written request of eight (8) members. Members shall receive written notice three (3) days in advance of a special meeting. Notice shall be served personally or left at a member's usual place of residence and shall specify the purpose, time and place of the meeting. No matters unrelated to the specified purpose may be considered without a specific waiver by all members of the board of directors.

§ 4-54-102.

(a) The board of directors of the Bureau of Ethics and Campaign Finance shall appoint a full-time executive director who shall serve at the pleasure of the board of directors. Other employees of the bureau shall be employed on recommendation of the executive director with the approval of the board. The executive director and all other employees of the bureau shall constitute the staff of the bureau and its two (2) divisions. The board of directors of the bureau may call on the office of the state coordinator of elections for such advice, documents or services as it may require.

(b) Employees of the bureau shall not possess civil service status, but such employees shall be subject to personnel policies applicable to state employees generally, such as leave, compensation, classification and travel requests.

(c) Neither the executive director nor any other employee of the bureau, nor any member of an employee's immediate family as defined in § 3-6-301, shall, during the period of such employment:

(1) Be allowed to hold or qualify for elective office to any state or local public office as defined in § 2-10-102;

(2) Be an officer of any political party or political committee;

(3) Permit such employee's name to be used or make contributions in support of or in opposition to any candidate or proposition; except that an employee's immediate family may make campaign contributions in support of or in opposition to any candidate or proposition;

(4) Participate in any way in any election campaign;

(5) Lobby or employ a lobbyist; provided, that this subdivision (c)(5) shall not prohibit the executive director from the performance of the executive director's duties; or

(6) Be employed by any elected officeholder, either in an official capacity or as an individual, or be employed by any business in which an elected officeholder has any direct input concerning employment decisions.

§ 4-54-103. The Bureau of Ethics and Campaign Finance shall:

(1) Promulgate such rules and regulations, pursuant to the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5, as are necessary to implement the provisions of Title 2, Chapter 10; Title 3, Chapter 6; Title 8, Chapter 17; and Title 8, Chapter 50, Part 5; provided, however, that all rules that relate exclusively to the registry of election finance shall be initiated and proposed to the board of directors of the bureau by a majority of the members of the registry of election finance and all rules that relate exclusively to the ethics commission shall be initiated and proposed to the board of directors of the bureau by a majority of the members of the ethics commission. Subject to the limitations contained in this subdivision (1), all rulemaking authority delegated by this chapter shall be vested in the Bureau of Ethics and Campaign Finance;

(2) Collect or receive all filings required to be made pursuant to Title 2, Chapter 10; Title 3, Chapter 6; Title 8, Chapter 17; or Title 8, Chapter 50, Part 5, and assign the issues contained therein, as appropriate, to the registry of election finance or the ethics commission, and further collect all fees, fines and monies assessed by the registry of election finance or the ethics commission; and

(3) Promulgate rules prescribing all forms for filings, complaints, registrations, statements and other documents that are required to be filed under the laws administered and enforced by the ethics commission or the registry of election finance, with the objective of making the documents as simple and understandable as possible for both the person filing the document and the average citizen of this state.

§ 4-54-104. All fees imposed by the registry of election finance and the ethics commission and collected by the Bureau of Ethics and Campaign Finance, as well as all appropriations made to the bureau, shall be deposited by the state treasurer in a separate account exclusively for the bureau, and shall be used by the bureau to defray expenses necessary to administer the provisions of this part; Title 2, Chapter 10; Title 3, Chapter 6; Title 8, Chapter 17; and Title 8, Chapter 50, Part 5, including the payment of salaries to employees, the purchase of supplies, and any other necessary expenses. Unexpended and unobligated fees remaining in this account at the end of any fiscal year shall not revert to the general fund, but shall remain available for use by the bureau. Penalties collected by the bureau shall be deposited into the state general fund.

§ 4-54-105.

(a) Except as provided in this chapter specifically to the contrary, the members of the registry of election finance shall exercise regulatory

jurisdiction over matters relating exclusively to the registry pursuant to Title 2, Chapter 10, free from interference by members of the ethics commission.

(b) Except as provided in this chapter specifically to the contrary, the members of the ethics commission shall exercise regulatory jurisdiction over matters relating exclusively to the ethics commission pursuant to Title 2, Chapter 10, Part 1; Title 3, Chapter 6; Title 8, Chapter 17; and Title 8, Chapter 50, Part 5, free from interference by members of the registry of election finance.

SECTION 2. Tennessee Code Annotated, Section 2-10-107(a)(2)(A)(ii), is amended by deleting the last sentence and by substituting instead the following language:

Further definitions and guidelines, if any, for what is also considered "best efforts" shall be set by rule promulgated pursuant to § 4-54-103(1).

SECTION 3. Tennessee Code Annotated, Section 2-10-107(c)(1)(B)(ii), is amended by deleting the last sentence and by substituting instead the following language:

Further definitions and guidelines, if any, for what is also considered "best efforts" shall be set by rule promulgated pursuant to § 4-54-103(1).

SECTION 4. Tennessee Code Annotated, Section 2-10-107(c)(2), is amended by adding the following language at the end of the subdivision:

Any changes or revisions to such rules shall be promulgated pursuant to § 4-54-103(1).

SECTION 5. Tennessee Code Annotated, Section 2-10-111(b), is amended by adding the following language at the end of the subsection:

Any changes or revisions to such rules shall be promulgated pursuant to § 4-54-103(1).

SECTION 6. Tennessee Code Annotated, Section 2-10-121, is amended by deleting the section in its entirety and by substituting instead the following language:

No later than January 31 of each year, each multicandidate political campaign committee registered with the registry of election finance shall pay a registration fee to be determined by rule promulgated pursuant to § 4-54-103(1). For any multicandidate political campaign committee registering a new committee during any year, the committee shall pay the appropriate registration fee at the time that it certifies its political treasurer. All fees collected under this section shall be retained and used for expenses related to maintaining an electronic filing system. This section shall not apply to any statewide political party as defined in § 2-1-104 or subsidiaries of the political party.

SECTION 7. Tennessee Code Annotated, Section 2-10-203(a), is amended by designating the first two sentences of subsection (a) as subdivision (a)(1) and by designating the remainder of the subsection as subdivision (a)(2).

SECTION 8. Tennessee Code Annotated, Section 2-10-203(a)(1), is amended by deleting the first sentence in its entirety and by substituting instead the following language:

There is created as a division of the Bureau of Ethics and Campaign Finance, as provided in Title 4, Chapter 54, a Tennessee registry of election finance.

SECTION 9. Tennessee Code Annotated, Section 2-10-203(b), is amended by deleting the subsection in its entirety and by substituting instead the following:

(b) The members of the registry of election finance shall also serve as members of the board of directors of the Bureau of Ethics and Campaign Finance.

SECTION 10. Tennessee Code Annotated, Section 2-10-204, is amended by deleting the section in its entirety.

SECTION 11. Tennessee Code Annotated, Section 2-10-207, is amended by deleting subdivision (1) in its entirety.

SECTION 12. Tennessee Code Annotated, Section 3-6-103, is amended by designating the first two sentences of subsection (a) as subdivision (a)(1) and by designating the remainder of the subsection as subdivision (a)(2).

SECTION 13. Tennessee Code Annotated, Section 3-6-103(a)(1), is amended by deleting the first sentence in its entirety and by substituting instead the following language:

There is created as a division of the Bureau of Ethics and Campaign Finance, as provided in Title 4, Chapter 54, a Tennessee Ethics Commission.

SECTION 14. Tennessee Code Annotated, Section 3-6-103(b), is amended by deleting the subsection in its entirety and by substituting instead the following:

(b) The members of the ethics commission shall also serve as members of the board of directors of the Bureau of Ethics and Campaign Finance.

SECTION 15. Tennessee Code Annotated, Section 3-6-104, is amended by deleting the section in its entirety.

SECTION 16. Tennessee Code Annotated, Sections 3-6-105(a), (c) and (d) and 3-6-115(a)(1), are amended by deleting the citation "§§ 2-10-122 – 2-10-129" and by substituting instead the citation "§§ 2-10-115, and 2-10-122 – 2-10-130".

SECTION 17. Tennessee Code Annotated, Section 3-6-106(a)(2), is amended by deleting subdivision (2) in its entirety.

SECTION 18. Tennessee Code Annotated, Section 3-6-107, is amended by deleting subdivision (1) in its entirety.

SECTION 19. Tennessee Code Annotated, Section 3-6-111, is amended by deleting the section in its entirety.

SECTION 20. Tennessee Code Annotated, Title 3, Chapter 6, Part 2, is amended by adding the following language as a new, appropriately designated section:

§ 3-6-210.

(a) Except as provided in subdivision (b)(1), §§ 3-6-201 through 3-6-203 shall only apply to a complaint alleging a violation of this chapter.

(b)(1) The commission has the authority to investigate any alleged violation of Title 8, Chapter 50, Part 5, upon a sworn complaint by a citizen of Tennessee that meets the requirements of § 3-6-201(b) or upon its own motion. The commission shall only have the power to assess a civil penalty after notice and opportunity for hearing.

(2) A petition filed pursuant to § 3-6-205(a)(1)(B) or (a)(2)(B) may be considered as a contested case under the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5.

SECTION 21. Tennessee Code Annotated, Section 3-6-302(d), is amended by deleting the language "By rule, the ethics commission shall authorize a lobbying firm to file" and by substituting instead the language "A lobbying firm shall be authorized, by rule promulgated pursuant to § 4-54-103(1), to file".

SECTION 22. Tennessee Code Annotated, Section 3-6-302(e), is amended by deleting the subsection in its entirety and by substituting instead the following language:

(e) Registration fees for employers of lobbyists and registration fees for lobbyists shall be established by rule, promulgated pursuant to § 4-54-103(1). The registration fee shall be paid not later than thirty (30) days following submission of a registration statement or amendment through which an employer reports a lobbyist or additional lobbyist or through which a lobbyist reports an employer or additional employer.

SECTION 23. Tennessee Code Annotated, Section 3-6-305(b)(8), is amended by deleting the language "By rule, the commission may authorize the filing of a consolidated report," and by substituting instead the language "The filing of a consolidated report may be authorized by rule, promulgated pursuant to § 4-54-103(1)".

SECTION 24. Tennessee Code Annotated, Section 3-6-308(a), is amended by deleting subdivision (9) in its entirety.

SECTION 25. Tennessee Code Annotated, Section 8-50-505, is amended by deleting the section in its entirety and by substituting instead the following:

8-50-505.

(a) The ethics commission has the jurisdiction to administer and enforce the provisions of this part concerning disclosure statements of conflicts of interest. This enforcement power includes the full range of powers and penalties and procedures established in Title 3, Chapter 6.

(b) It is the intent of the general assembly that the sanctions provided in this section are the civil penalties enacted into law by § 3-6-205.

SECTION 26. Tennessee Code Annotated, Section 4-29-229(a), is amended by deleting subdivision (82) in its entirety.

SECTION 27. Tennessee Code Annotated, Section 4-29-230(a), is amended by deleting subdivision (54) in its entirety.

SECTION 28. Tennessee Code Annotated, Section 4-29-232(a), is amended by adding the following language as a new, appropriately designated subdivision:

() Bureau of Ethics and Campaign Finance, created by § 4-54-101;

SECTION 29. It is the intent of the general assembly that:

(1) The current members of the registry of election finance and the ethics commission shall remain members of each respective entity and shall comprise the Bureau of Ethics and Campaign Finance created by this act until the expiration of their terms or resignation;

(2) The executive director of the registry of election finance upon the effective date of this act shall be the initial executive director of the Bureau of Ethics and Campaign Finance;

(3)(A) From July 1, 2009 through and including August 10, 2009, the Bureau of Ethics and Campaign Finance is authorized to undertake actions necessary on behalf of the Tennessee Ethics Commission and the Tennessee registry of election finance to effectuate the transition of such entities into divisions of the bureau.

(B) Staff positions of the Tennessee Ethics Commission as of June 30, 2009, shall be transferred to the Bureau of Ethics and Campaign Finance through and including August 10, 2009; provided, however, that the Bureau of Ethics and Campaign Finance shall reclassify the position of the executive director of the Tennessee Ethics Commission. With the approval of the bureau, the executive director of the bureau may reclassify or eliminate staff positions of the ethics commission after August 10, 2009, as the executive director deems necessary for the efficient and effective operations of the bureau. No vacant staff position within the bureau shall be filled from July 1, 2009 through August 10, 2009;

(4) All rules of the registry of election finance and the ethics commission in effect on the effective date of this act shall remain in full force and effect as rules of the Bureau of Ethics and Campaign Finance until modified or repealed; and

(5) The registry of election finance and ethics commission shall be audited in conjunction with the audit of the Bureau of Ethics and Campaign Finance by the comptroller of the treasury for purposes of Title 4, Chapter 29.

SECTION 30. Section 1 through Section 25 of this act shall take effect July 1, 2009, the public welfare requiring it. All other sections of this act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: June 17, 2009



RON RAMSEY
SPEAKER OF THE SENATE



KENT WILLIAMS, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 30th day of June 2009



PHIL BREDESEN, GOVERNOR